

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

WALTER W. THIEMANN, <i>et al.</i>,)	Case No. C-1-00-793
)	
Plaintiffs,)	(Judge Sandra S. Beckwith)
)	(Magistrate Judge Timothy S. Hogan)
-v-)	
)	
OHSL FINANCIAL CORPORATION,)	
<i>et al.</i>,)	
)	
Defendants.)	
)	

**DEFENDANT PROVIDENT FINANCIAL GROUP, INC.’S CROSS-MOTION FOR
SUMMARY JUDGMENT ON PLAINTIFFS’ SECTION 11 “RESTATEMENT CLAIM”**

Pursuant to Rule 56 of the Federal Rules of Civil Procedure, Defendant Provident Financial Group, Inc. (“Provident”) files this cross-motion for partial summary judgment on Plaintiffs’ Section 11 “Restatement Claim.”

In their Restatement Claim, Plaintiffs allege that Provident’s March and April, 2003 restatements of operating results prove that certain financial data contained in the September 24, 1999 Proxy Materials was misstated. Plaintiffs have filed a motion for partial summary judgment seeking a ruling that the misstated financial data in the 1999 Proxy Materials, which was disclosed by the 2003 Restatements, was material for the purposes of establishing Provident’s liability under Section 11 of the 1933 Act.

Provident cross-moves for summary judgment on the Restatement Claim on the following grounds: (1) Plaintiffs’ Restatement Claim is barred by the three-year statute of repose in 15 U.S.C. § 77m; and (2) the purported misstatements upon which Plaintiffs base their motion for partial summary judgment were immaterial to the OHSL-Provident transaction. In support of its cross-motion for summary judgment, Provident relies on, and incorporates by reference

herein, the arguments it made in its Memorandum in Opposition to Plaintiffs' Partial Motion for Summary Judgment on Liability Issues Under Section 11 of the 1933 Act ("Provident's Opp."), as well as the affidavit of Tayfun Tuzun, which is attached to Provident's Opp.

Respectfully submitted,

/s/ John B. Pinney

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing DEFENDANT PROVIDENT FINANCIAL GROUP, INC.'S CROSS-MOTION FOR SUMMARY JUDGMENT ON PLAINTIFFS' SECTION 11 "RESTATEMENT CLAIM" was served upon the following, by ordinary U.S. mail, this 12th day of February, 2004.

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